

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KLAUS-ULRICH LANGE, FRIEDRICH MICHAELIS
and HERMANN LENZ

Appeal No. 1999-0050
Application 08/499,111¹

ON BRIEF

Before COHEN, McQUADE and NASE, Administrative Patent Judges.
McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Klaus-Ulrich Lange et al. appeal from the final rejection of claims 1, 4, 5, 9, 10 and 15 through 17. Claims 6 through 8 and 11 through 14, the only other claims pending in the

¹ Application for patent filed July 6, 1995.

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application, stand withdrawn from consideration pursuant to 37 CFR § 1.142(b). The subject matter on appeal relates to a gripper cylinder for use in a sheet handling machine. Claim 1 is illustrative and reads as follows:

1. A gripper cylinder for a folding apparatus, comprising:

a cylinder shaft;

a cylinder body mounted on the cylinder shaft;

at least two gripper stations mounted on the cylinder body and including grippers and corresponding gripper bases, each of the gripper bases being configured as a roller having a periphery formed of a plurality of surfaces at different distances from a center of the roller; and

adjusting means for adjusting the gripper stations so that a distance between each gripper and its corresponding gripper base corresponds to a thickness of a product to be gripped, the adjusting means being operative to simultaneously adjust all the gripper stations, the adjusting means further being operative to adjust the gripper bases.

The references relied upon by the examiner as evidence of obviousness are:

Kirn et al. (Kirn)	3,680,642	Aug. 1,
1972		
Jeschke et al. (Jeschke)	4,667,952	May
26, 1987		

Claims 1, 4, 5, 9, 10 and 15 through 17 stand rejected

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under 35 U.S.C. § 103(a) as being unpatentable over Jeschke in view of Kirn.

Reference is made to the appellants' brief (Paper No. 12) and to the examiner's answer (Paper No. 13) for the respective positions of the appellants and the examiner with regard to the merits of this rejection.

Jeschke, the examiner's primary reference, discloses a gripper cylinder in the form of a sheet-guiding drum 1. The drum comprises a shaft, a drum body 6 and a plurality of gripper stations in the form of gripper bridges 5 mounted on the drum body. Each gripper bridge 5 includes a gripper 7 and a corresponding gripper base or support 8 which is radially adjustable relative to the gripper to accommodate sheets of different thicknesses. The drum 1 also comprises means for simultaneously adjusting all of the gripper bases (see, for example, column 4, lines 27 through 64).

As conceded by the examiner (see page 4 in the answer),

the Jeschke gripper cylinder does not meet the limitations in claim 1 requiring each gripper base to be configured as a roller having a periphery formed of a plurality of surfaces at different distances from a center of the roller. Jeschke's gripper bases 8 are beam-like structures which are adjustably supported for

movement generally along their longitudinal axes. The examiner's reliance on Kirn to cure this deficiency in Jeschke is not well founded.

Kirn discloses a variable speed percussion drilling machine having an eccentrically-mounted prismatic portion 139 which can be turned to adjust the axial position and operation of a tool holder shaft 127 (see column 6, lines 8 through 61).

According to the examiner,

Kirn et al. disclose the old and well known concept of providing a roller with planar surfaces (139) that is eccentrically mounted to allow for linear adjustment of machine elements (see col. 6, lines 13-21).
It would have been obvious to one of ordinary skill

in the art at the time the invention was made to provide the apparatus of Jeschke et al with non-circular section gripper bases . . . in view of Kirn et al. so as [to] adjust the gripper base to correspond to varying thicknesses of the paper [answer, pages 4 and 5].

Kirn's disclosure of a percussion drilling machine, however, is far removed from Jeschke's disclosure of a sheet-guiding drum. Given the disparate natures of these devices, it is apparent that the examiner has engaged in an impermissible hindsight reconstruction of the appellants' invention by utilizing the appealed claims as a blueprint to selectively pick and choose from among isolated disclosures in the prior art. Therefore, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of independent claim 1 or of claims 4, 5, 9, 10 and 15 through 17 which depend therefrom.²

²Our review of claims 4 and 5 in light of the underlying disclosure (see the third paragraph on specification page 5) indicates that the particular gripper base embodiments defined in these claims are mutually exclusive to the gripper base embodiment recited in parent claim 1 ("a roller having a periphery formed of a plurality of surfaces at different distances from a center of roller"). These inconsistencies, apparently introduced inadvertently in the amendment filed January 16, 1997 (Paper No. 5), are deserving of correction in

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The decision of the examiner is reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
)	
)	BOARD OF PATENT
JOHN P. McQUADE)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
JEFFREY V. NASE)	
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the event of further prosecution before the examiner.